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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,147	02/24/2004	James Watson Barner	57690.010513	8165
38077	7590	12/09/2005		
PATRICK W. RASCHE			EXAMINER	
ARMSTRONG TEASDALE LLP			HARMON, CHRISTOPHER R	
ONE METROPOLITAN SQUARE, SUITE 2600				
ST. LOUIS, MO 63102-2740			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/785,147	BARNER, JAMES WATSON
	Examiner	Art Unit
	Christopher R. Harmon	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8-14 and 16-20 is/are rejected.
- 7) Claim(s) 15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the step of forming the reinforcing sleeve" in line

1. There is insufficient antecedent basis for this limitation in the claim. Claim 8 does not positively recite a method step of forming a reinforcing sleeve.

The "providing at least one substantially stretchable reinforcing sleeve" step of claims 17-20 is redundant in that it fails to further modify the same step (it does not further comprise "providing at least one substantially stretchable reinforcing sleeve").

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US 2,766,926) in view of Ruggiere, Sr. et al. (US 5,772,108).

Thompson discloses a method of providing at least one paperboard blank 26 with multiple joints; adhering the blank, see column 4, lines 50+; positioning the collapsed blank/bulk bin body 26 with side walls in a parallel, overlying manner, see figure 2; providing stretchable reinforcing tubular sleeve 10; placing the reinforcing sleeve 10 around the bulk bin body in its collapsed configuration; see figures 1-6.

Regarding the limitation of "when the bulk bin body is in its collapsed configuration", Thompson discloses stretching the sleeve 10 upon opening and finally snapping to an erect state; see column 4, lines 42-46. The sleeve thereby stretched to varying degrees during the erection of the blank however not in a flat collapsed configuration.

Ruggiere, Sr. et al. teaches a method of placing reinforcing sleeves/bands 40 about the plurality of side walls of a collapsed bulk bin body 10; see figure 5b. The reinforcing sleeves are pre-stretched polypropylene (force applied and removed) and are placed in tension around the collapsed bin body therefore have a circumference less than the external circumference of the bulk bin body. Ruggiere, Sr. discloses placing the straps "with sufficient tension so that the straps 40 do not slide off during assembly" (column 6, lines 40-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include placing the reinforcing sleeve of Thompson in a slightly stretched configuration as taught by Ruggiere, Sr. in order to prevent unwanted displacement of the sleeve relative to the bulk bin body.

Thompson does not directly disclose a one to two percent inclusive range of stretching, however discloses stretching the sleeve; see column 3, lines 42-45.

The degree of stretching of sleeve 10 is uncertain, however at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to tension the sleeves to permit one to two percent stretching because Applicant has not disclosed that this range provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the slight tensioning because the sleeves are tensioned/stretched enough to prevent slipping. Further note that when general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 11, Thompson does not directly disclose the material used for making the reinforcing sleeve but rather of diverse flexible sheet materials and forming the reinforcing sleeve cut from a tubular extrusion; see column 3, lines 55-58. It would have been obvious to one of ordinary skill in the art to use polypropylene for the reinforcing sleeve of Thompson as taught by Ruggiere, Sr. as it is a well known flexible plastic material used in the packaging art.

Regarding claim 12, Thompson discloses forming the reinforcing sleeve cut from a tubular extrusion; see column 3, lines 50-55.

Regarding claims 13 and 17, Thompson discloses providing a tubular sleeve with only one seam parallel to the side wall however the examiner takes OFFICIAL NOTICE

that forming tubes with two seams and/or seamless tube forming are both well known and would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tubular sleeve with zero or two seams.

The tubular sleeve has a height substantially equal to the height of the bulk bin body/containers to be reinforced.

Regarding claim 20, Ruggiere, Sr. discloses band/sleeve widths ranging from .25-2 inches, see column 6, lines 36-39. The container height/depth is also variable; see column 5, lines 54-55. A container side wall height four times the sleeve height would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

***Allowable Subject Matter***

5. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments, filed 9/27/05, with respect to the rejection(s) of claim(s) 8 under Ruggiere, Sr. have been fully considered and are persuasive to the extent that providing a reinforcing sleeve and then placing the reinforcing sleeve about the plurality of side walls is not disclosed because Ruggiere, Sr. discloses a strapping/banding operation without a preformed sleeve. Therefore, the rejection has been withdrawn.

Art Unit: 3721

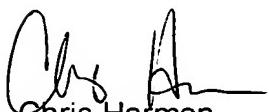
However, upon further consideration, a new ground(s) of rejection is made in view of Thompson '926, see above.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chris Harmon  
Patent Examiner